

REMARKS

Claims 1-4 and 7-20 are pending.

(a) In the present Amendment, independent claim 14 is amended to incorporate all of the elements of independent claim 1. No new matter is added.

Entry of the Amendment after Final is deemed to be appropriate and is respectfully requested because the amendment to claim 14 places the application in condition for allowance for *at least* the reasons set forth below.

(b) Applicants thank Examiner Thompson for holding a personal interview with Applicants' representative on November 20, 2008. According to the Examiner, Applicants' Rule 132 Declaration "overcomes the Sawai reference." (*See* Interview Summary dated November 24, 2008 at Continuation Sheet, ll. 7-8). The interview is discussed in more detail below.

(c) In Paragraph No. 4 of the Office Action, claims 1-2, 4 and 7-13 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,638,645 ("Sawai").

In Paragraph No. 6 of the Office Action, claims 3 and 14-20 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sawai in view of U.S. Patent No. 5,766,751 ("Kotani").

In Paragraph No. 7 of the Office Action, claims 14-20 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kotani.

Applicants traverse.

During the personal interview, the Declaration Under 37 C.F.R. § 1.132 of Mr. Hiroshi Iwanaga that was filed May 28, 2008 was discussed, particularly the difference in oxygen

transmission rate limitation of present claim 1.¹ For example, it was pointed out that a difference in oxygen transmission rate of 0 is only possible if the oxygen transmission rate at 10% RH and 90% RH were identical. Further, if a layer had relatively poor gas barrier properties, such as the layer of Sawai, the oxygen transmission rate at 90% RH would necessarily be higher than the oxygen transmission at 10% RH. Moreover, a lower difference in oxygen transmission rate would be preferable to a higher difference, and therefore, a difference of 0 would actually be optimal. In further support of this position, present claim 2 recites a narrower range of from 0 to 1×10^{-6} ml/m²•day•Pa. (See Claim 2.)

The Examiner's attention was then respectfully directed to Table 1 at page 4 of Mr. Iwanagi's Declaration which compares additional Comparative Example R1, which reproduced the closest embodiment of Sawai to the present claims according to Mr. Iwanagi, with additional Working Example N1. The Examiner agreed that Comparative Example R1 had a difference in oxygen transmission rate outside of the claimed range.

In light of the above, the Examiner agreed that the additional experimentation demonstrated the superiority of the claimed gas barrier film and supported the patentability of present claim 1. Thus, in the attached Interview Summary, the Examiner states that "*Applicant's Declaration overcomes the Sawai reference.*" (See Interview Summary at the Continuation Sheet, ll. 7-8.)

¹ In relevant part, present claim 1 requires that the "difference between oxygen transmission rate at 25°C in relative humidity of 10% and oxygen transmission rate at 25°C in relative humidity of 90% is within the range of 0 to 1.0×10^{-3} ml/m²•day•Pa." (See Claim 1.)

Accordingly, Applicants respectfully submit that withdrawal of the Section 102 rejection of claims 1-2, 4 and 7-13 based on Sawai and the Section 103 rejection of claims 3 and 14-20 based on Sawai in view of Kotani should be deemed proper.

Further, claim 14 is amended herein to incorporate the elements of independent claim 1 that are not presently recited in independent claim 14. As discussed with the Examiner, this amendment to claim 14 should not require further search and consideration because the subject matter has already been searched and considered with respect to claim 1.

Accordingly, Applicants respectfully submit that withdrawal of the Section 103 rejection of claims 14-20 based on Kotani should be deemed proper.

(d) In view of the above, reconsideration and allowance of claims 1-4 and 7-20 of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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